

REMARKS AND ARGUMENTS

Applicant has cancelled Claims 2 and 17 and has amended the remaining claims to more particularly point out and distinctly claim what Applicant regards as his invention.

On October 13, 2004, a Power of Attorney was filed in this application denominating John Edward Roethel, Registration No. 28372 as counsel of record in this application. The same Power of Attorney form also requested that the correspondence address be changed to the address for John Edward Roethel at Customer No. 24258. The Examiner is requested to conform the records of this application to reflect that Power of Attorney and Correspondence Address Change and to mail all subsequent communications from the Patent Office to this address.

With regard to the objections to the claims and the rejection of Claims 1-20 under 35 U.S.C. 112, second paragraph, Applicant has amended each of the claims to provide proper antecedent basis for the terms used therein. As a matter of claim drafting style, counsel for Applicant would prefer not to use the term "said" in deference to any possible jury confusion should this application ever be litigated.

The Examiner is requested to review the claims, as amended,

and find that these claims now comply with 35 U.S.C. 112, second paragraph.

Claims 2 and 17 have been cancelled.

The limitations of Claim 2 have been incorporated into Claim 1. The limitations of Claim 17 have been incorporated into Claim 16.

Claims 1-20 stand rejected under 35 U.S.C. 102 as being anticipated by Weingardt 2002/0113369. In order for a rejection for anticipation under 35 U.S.C. 102 to be proper, each and every element or step of the claim must be disclosed within the Weingardt reference relied upon by the Examiner.

Weingardt discloses a game with some bingo elements and some poker elements. Each player terminal has a 4X13 matrix with each location of the matrix corresponding to one of the 52 numbered bingo balls used in the game. Each location of the matrix also has associated therewith one of the 52 cards of standard playing deck.

For each player, the location of the matrix corresponding to the 52 numbered bingo balls is the same. Location 32 for player A is at the same location on the matrix as location 32 for player B.

For each player, the location of the matrix corresponding to

one of the 52 cards of the standard playing deck is different as the mapping of the 52 cards of the standard playing deck is randomly generated for each player before each game.

Thus, when a location on the matrix is identified by drawing a numbered bingo ball, player A may receive a Six of Clubs while player B may receive a Queen of Hearts.

During a typical game of bingo poker as described in Weingardt, five bingo balls are initially drawn which results in each player having a five card poker hand displayed to him on his gaming screen. Each player selects which of these five cards the player wishes to hold and the unheld (discarded) cards are replaced by different cards from the next five bingo balls that are drawn. Since the player may discard all five of the initial cards, each game requires that 10 bingo balls be drawn.

Any player who has a winning hand after the draw step is completed receives a payout. Weingardt plays draw poker using a bingo ball simulation to select which of the 52 cards from a standard deck of playing cards are dealt into a player's hand.

In the present invention, the game of bingo is played. In order to obtain a winning outcome, a player must achieve a winning bingo pattern. Each player is given five daubs to use during the

play of the bingo game. Each player must use his five daubs during the play of the game.

In the first phase of the game of the present invention, five bingo balls are drawn and each player may or may not use all of his five daubs on his bingo card to select these five bingo balls. If a player does not use his total five daubs to select all of the first five bingo numbers drawn, then additional bingo balls are drawn. These additional bingo balls are automatically daubed into the player's bingo card so that each player has a bingo card with five locations daubed.

Claim 1, as amended, recites this method of play which is not anticipated by the Weingardt disclosure. Weingardt does not actually use bingo patterns to determine a winner. As described in paragraph 29 of Weingardt, the flashboard (i.e., bingo card) disclosed by Weingardt has the corresponding bingo ball numbers sequentially arranged on each player's card in the same order. However, the auxiliary indicia (i.e., the playing cards that are used to make poker hands) are randomly placed on the flashboard so that each player makes a different poker hand with the same set of drawn bingo balls (even though each flashboard will have the same pattern of bingo balls drawn on it). The result is that in order

to determine a winner, the playing cards in the player's hand are evaluated - NOT the pattern formed by the bingo ball draw and any daubs made by the player of the game's logic.

For instance, in the method of play of the present invention, a royal flush will always have the pattern of five balls in a row in the right most end of a row. But a royal flush in the Weingardt disclosure could form any pattern (in other words no real pattern) on any given player's flashboard. Thus, Weingardt doesn't disclose "a defined first set of bingo patterns" as stated in steps (l) and (m) of claim 1. This shortcoming in Weingardt is repeated again in paragraph 49 of his disclosure in the discussion of a bingo slot.

Claims 3-15 depend directly or indirectly from Claim 1 and are submitted to be allowable for the same reasons that Claim 1 is allowable.

Additionally, with regard to Claim 3, which depends from Claim 1, Weingardt does not disclose "a set of game-ending patterns" that are used in conjunction with a "defined first set of bingo patterns". Rather, the game in Weingardt takes either the highest or lowest poker hand and declares that hand to be the game ending HAND. Thus, the pattern formed by this hand is determined on an

ad hoc basis once the game is over. See paragraph 37 of the Weingardt disclosure.

With respect Claims 7-10, the expected value for the first bingo patterns is much greater than the expected value for the game-ending patterns regardless of the likelihood that the game-ending pattern extended draw is reached. In fact, the reality of game of the present is just the opposite of what the Examiner predicts as "inherent". The extended draw for the game-ending pattern may be needed quite frequently depending on the number of players and the associated pay-out is still quite small resulting in a drastically smaller expected value for the gaming-ending pattern.

Independent Claim 16 is narrower in scope than Claim 1 in that the set of bingo balls is set at 52 and the number of selectively activated daubs is set at five. Claim 16 is submitted to be allowable for the same reasons that Claim 1 is allowable.

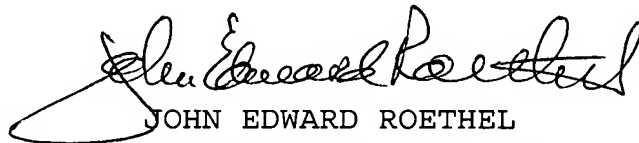
Claims 18-20 depend directly or indirectly from Claim 16 and are submitted to be allowable for the same reasons that Claim 16 is allowable.

Additionally, with regard to Claim 18, which depends from Claim 16, Weingardt does not disclose "a set of game-ending

patterns" that are used in conjunction with a "defined first set of bingo patterns". Rather, the game in Weingardt takes either the highest or lowest poker hand and declares that hand to be the game ending HAND. Thus, the pattern formed by this hand is determined on an ad hoc basis once the game is over. See paragraph 37 of the Weingardt disclosure.

Applicant submits that all of the claims pending in this application, Claims 1, 3-15 and 18-20, are allowable over the prior art of record and the Examiner is requested to reconsider the rejections of Claims 1, 3-15 and 18-20 and to find that these claims are now allowable. If the Examiner has further questions regarding this application, the Examiner is requested to call undersigned counsel.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Edward Roethel", is written over a horizontal line.

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